THE TRAVANCORE IMPORTATION OF LIVE STOCK BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I rise to introduce the Travancore Importation of Live Stock Bill which has been published in the Gazette with a statement of objects and reasons. I move the Bill be read in Assembly.

MR. R. NILAKANTA PILLAI (*Financial Secretary to Government*): I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The Bill is intended to prohibit the importation of diseased cattle into the State. I trust the House accepts the general principles.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): In supporting my friend I would only point out one aspect of the matter. The Bill, as at present framed, deals only with importation of live stock. They come to the State by trespass also. In such cases also, provision must be made in the Bill so that trespass of stray animals may also be brought under law.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Does the member refer to cases where somebody harbours a cow or a horse which is prohibited to be brought into the State?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): This measure may be useful.

DEPUTY PRESIDENT: Does the House agree to the principles being accepted?

The House accepted the principles of the Bill.

The Secretary then read the title of the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I beg to move that the Bill be referred to a Select Committee consisting of the following gentlemen:

1. The Deputy President.
2. Messrs. P. Chidambaram Pillai.
3. „ K. P Krishna Menon.
4. „ N. John Joseph.
5. „ Pottayil S. Krishna Panickar.
6. Messrs. V. Ramakrishna Panickar.
7. „ K. Padmanabhan.
8. „ K. R. Elenkath.
9. „ N. E. Varughese.

DEPUTY PRESIDENT: Does the House agree?

The House agreed.

DEPUTY PRESIDENT: The motion is carried. The Committee will report in four months.

THE TRAVANCORE LUNACY BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I rise to introduce the Travancore Lunacy Bill which has been published with a statement of objects and reasons in the Government Gazette, and I move that the Bill be read in Assembly.

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MR. R. NILAKANTA PILLAI (*Financial Secretary to Government*): I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The principle of the Bill is this. As far as criminal lunatics are concerned, there is provision in the Criminal Procedure Code. Other classes of lunatics such as those who wander about the streets or are poor and uncared for and are cruelly treated do not come under that law. This Bill is drawn on the lines of the British Indian Lunacy Act to protect all classes of lunatics.

MR. M. SIVATANU PILLAI (*Tovala*): I whole-heartedly support it.

DEPUTY PRESIDENT: No opposition to the principles of the Bill?

The House accepted the principles of the Bill.

The Secretary then read the title of the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I move that the Bill be referred to a Select Committee consisting of the following gentlemen:

1. The Deputy President.
2. Messrs. Changanachery K. Parameswaran Pillai.
3. ,, T. Krishna Pillai.
4. ,, K. Madhavan.
5. ,, K. Mahomed.
6. Messrs. R. Raman Pillai.
7. ,, E. V. Krishna Pllai.
8. ,, K. M. Krishnani.
9. ,, P. K. Narayana Pillai.
10. ,, M. K. Janardana Kamath.

I would withdrawn the name of Mr. Changanachery Parameswaran Pillai, as he wishes to be excused.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): I would suggest Mr. N. Abdur Rahiman Sahib in place of Mr. Changanachery K. Parameswaran Pillai, as he wishes to be excused.

The House agreed.

DEPUTY PRESIDENT: The Committee will report in four months.

THE TRAVANCORE COMPANIES REGULATION AMENDMENT BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I rise to introduce the Travancore Companies Regulation Amendment Bill which has been published with a statement of objects and reasons in the Gazette. I move that the Bill be read in the Assembly.

MR. R. NILAKANTA PILLAI (*Financial Secretary to Government*): I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I trust that the general principle is accepted.

DEPUTY PRESIDENT: No opposition?

There was no opposition and the motion was carried.

The Secretary then read the title of the Bill.

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A BILL TO CONSOLIDATE AND AMEND THE LAW RELATING TO LUNACY.

Whereas it is expedient to consolidate and amend the law relating to lunacy. It is hereby enacted as follows :—

PART I.

PRELIMINARY

CHAPTER I.

Short title extent and commencement

1. (1) This Regulation may be called the Travancore Lunacy Regulation, 110 .

(2) It extends to the whole of Travancore, and

(3) It shall come into force on—

Definitions

2. In this Regulation, unless there is anything repugnant in the subject or context,—

(1) "asylum" means an asylum or mental hospital for lunatic established, or declared to be such, by Our Government ;

(2) "cost of maintenance" in an asylum includes the cost of lodging maintenance, clothing, medicine and care of a lunatic and any expenditure incurred in removing such lunatic toand from an asylum together with any other charges prescribed by Our Government ;

(3) "District Court" means the principal civil court of original justisdiction ;

(4) "Criminal lunatic" means any persen for whose confinement in or removal to, an asylum, jail or other place of safe custody an order has been made in accordance with the provisions of Section 347 or Section 352 of the Code of Criminal Procedure, or of any rule relating to lunatics passed by Our Government under the Prison Regulation of 1071 ;

(5) "Lunatic" means an idiot or person of unsound mind ;

(6) "Magistrate" means a District Magistrate or a Magistrate of the first class specially empowered by Our Government to perform the functions of a Magistrate under this Regulation ;

(7) "medical officer" means a Gazetted medical officer of Our Government, and includes a medical practitioner declared by general or special order of Our Government to be a medical officer for the purposes of this Regulation ;

(8) "medical practitioner" means a holder of the degree of Doctor, Bachelor or Licentiate of Medicine and Surgery of any of the British or Indian University or any person declared by general or special order of Our Government to be a medical practitioner for the purposes of this Regulation ;

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(9) "prescribed" means prescribed by this Regulation or by rules made thereunder;

(10) "reception order" means an order made under the provisions of this Regulation for the reception into an asylum of a lunatic other than a lunatic so found by inquisition;

(11) "relative" includes any person related by blood, marriage or adoption; and

(12) "rule" means a rule made under this Regulation.

PART II.

RECEPTION, CARE AND TREATMENT OF LUNATICS.

CHAPTER II.

Reception of Lunatics.

Reception of persons in asylum.

3. (1) No person other than a criminal lunatic or a lunatic so found by inquistion shall be received or detained in an asylum without a reception order save as provided by Sections 7, 15, and 17;

Provided that the person in charge of an asylum may, with the consent of two of the visitors of such asylum, which consent shall not be given except upon a written application from the intending boarder receive and lodge as boarder in such asylum any person who is desirous of submitting himself to treatment.

(2) A boarder received in an asylum under the proviso to sub-section (1) shall not be detained in the asylum for more than twenty-four hours after he has given to the person in charge of the asylum notice in writing of his desire to leave such asylum.

Reception orders on petition.

Application for reception order.

4. (1) An application for a reception order shall be made by petition accompanied by a statement of prescribed particulars to the Magistrate within the local limits of whose jurisdiction the alleged lunatic ordinarily resides, shall be in the form prescribed and shall be supported by two medical certificates on separate sheets of paper, one of which certificates shall be from a medical officer.

(2) If either of the medical certificates is signed by any relative, partner or assistant of the lunatic or of the petitioner, the petition shall state the fact, and, where the person signing is a relative, the exact manner in which he is related to the lunatic or petitioner.

(3) The petition shall also state whether any previous application has been presented for an inquiry into the mental capacity of the alleged lunatic in any court, and if such application has been made, a certified copy of the order made thereon shall be attached to the petition.

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Application by whom to be presented.

5. (1) Subject to the provisions of sub-section (3), the petition shall be presented by the husband or wife of the alleged lunatic, or, if there is no husband or wife or the husband or wife is prevented by reason of insantiy, absence from Travancore or otherwise from making the presentation, by the nearest relative of the alleged lunatic who is not so prevented.

(2) If the petition is not presented by the husband or wife or, where there is no husband or wife, by the nearest relative of the alleged lunatic, the petition shall contain a statement of the reasons why it is not so presented, and of the connection of the petitioner with the alleged lunatic, and the circumstances under which he presents the petition.

(3) No person shall present a petition unless he has attained the age of majority and has within fourteen days before the presentation of the petition, personally seen the said lunatic.

(4) The petition shall be signed and verified by the petitioner, and the statement of prescribed particulars by the person making such statement.

Procedure upon petition for reception order.

6. (1) Upon the presentation of the petition, the Magistrate shall consider the allegations in the petition and the evidence of lunacy appearing by the medical certification.

(2) If he considers that there are grounds for proceeding further, he shall personally examine the alleged lunatic unless for reasons to be recorded in writing he thinks it unnecessary or inexpedient so to do.

(3) If he is satisfied that a reception order may properly be made forthwith, he may make the same accordingly.

(4) If he is not so satisfied, he shall fix a date (notice whereof shall be given to the petitioner and to any other person to whom in the opinion of the Magistrate notice should be given) for the consideration of the petition, and he may make such further or other inquiries of or concerning the alleged lunatic as he thinks fit.

Detention of alleged lunatic pending inquiry.

7. Upon the presentation of the petition, the Magistrate may make such order as he thinks fit for the suitable custody of the alleged lunatic pending conclusion of the inquiry.

Consideration of petition.

8. The petition shall be considered in private in the presence of the petitioner, the alleged lunatic (unless the Magistrate in his discretion otherwise directs), any person appointed by the alleged lunatic to represent him and such other persons as the Magistrate thinks fit.

Order.

9. (1) At the time appointed for the consideration of the petition, the Magistrate may either make a reception order or dismiss the petition, or may adjourn the same for further evidence or inquiry, and may make such

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order as to the payment of the costs of the inquiry by the person upon whose application it was made, or out of the estate of the alleged lunatic if found to be of unsound mind, or otherwise as he thinks fit.

(2) If the petition is dismissed, the Magistrate shall record in writing his reasons for dismissing the same, and shall deliver or cause to be delivered to the petitioner a copy of such order.

Further provisions as to reception orders on petition.

10. No reception order shall be made under Section 6 or Section 9, save in the case of a lunatic who is dangerous and unfit to be at large, unless—

(*a*) the Magistrate is satisfied that the person in charge of an asylum is willing to receive the lunatic, and

(*b*) the petitioner or some other person engages in writing to the satisfaction of the Magistrate to pay the cost of maintenance of the lunatic.

Power to appoint substitute for the person upon whose application a reception order has been made.

11. (1) The Magistrate may, subject to the provisions of this Section by order in writing (here-in-after referred to as an order of substitution), transfer the duties and responsibilities under this Regulation of the person on whose petition reception order has been made to any other person who is willing to undertake the same, and such other person shall thereupon be deemed for the purpose of this Regulation to be the person on whose petition the reception order was made, and all reference in this Regulation to such last mentioned person shall be construed accordingly :

Provided that no such order of substitution shall release the person upon whose petition the reception order was made or if he is dead, his legal representative from any liability incurred before the order of substitution was made.

(2) Before making any order of substitution, the Magistrate shall send a notice to the person upon whom petition to the reception order was made, if he is alive, and to any relative of the lunatic to whom in the opinion of the Magistrate, notice should be given ; the notice shall specify the name of the person in whose favour it is proposed to make such order and the date, which shall be not less than twenty days from the sending of the notice, upon which any objection to the making of the order will be considered.

(3) On such date or any subsequent date to which the proceedings may be adjourned, the Magistrate shall consider any objection made by any person to whom notice has been sent or by any other relative of the lunatic and shall receive any all such evidence as may be produced by or on behalf of any of such persons and such further evidence, if any, as the Magistrate thinks necessary and may thereafter make or refrain from making an order of substitution.

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Provided that, if the person on whose petition the reception order was made is dead and any other person is willing and, in the opinion of the Magistrate fitted to undertake the duties and responsibilities under this Regulation of such first mentioned person, the Magistrate shall make such an order.

(4) If in proceedings under this Section any question arises as to the person to whom the duties and responsibilities under this Regulation of a person upon whose petition a reception order has been made shall be entrusted, the Magistrate shall give preference to the person who is the nearest relative of the lunatic, unless for reasons to be recorded in writing, the Magistrate considers that such preference would not be in the interests of the lunatic.

(5) The Magistrate may make such order for the payment of the costs of an enquiry under this Section by any person who is a party thereto or out of the estate of the lunatic, as he thinks fit.

(6) Any notice under sub-section (2) may be sent by Anchal or Post registered to the last known address of the person for whom it is intended.

Reception orders otherwise than on petition.

Powers and duties of Police in respect of wandering or dangerous lunatics and lunatics cruelly treated, or not under proper care and control.

12. (1) Every officer in charge of a Police station not below the rank of a Sub-Inspector may arrest or cause to be arrested all persons found wandering at large within the limits of his station whom he has reason to believe to be lunatics, and every officer in charge of a Police station shall arrest or cause to be arrested all persons found wandering at large within the limits of his station whom he has reason to believe to be dangerous by reason of lunacy. Any person so arrested shall be taken forthwith before the Magistrate.

(2) Every officer in charge of a Police station who has reason to believe that any person within the limits of his station is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, shall immediately report the fact to the Magistrate.

Reception order in case of wandering and dangerous lunatics.

13. Whenever any person is brought before a Magistrate under the provisions of sub-section (1) of Section 12, the Magistrate shall examine such person, and if he thinks that there are grounds for proceeding further, shall cause him to be examined by a medical officer, and may make such other enquiries as he thinks fit; and if the Magistrate is satisfied that such person is a lunatic and a proper person to be detained, he may, if the medical officer who has examined such person gives a medical certificate with regard to such person, make a reception order for the detention of such lunatic in an asylum.

Provided that if any friend or relative of the lunatic enters into a bond with or without sureties for such sum of money as the Magistrate thinks fit, conditioned that such lunatic shall be properly taken care

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of, and shall be prevented from doing injury to himself or to others, the Magistrate instead of making a reception order may if he thinks fit, make him over to the care of such friend or relative.

Order in case of lunatic cruelly treated or not under proper care and control.

14. (1) If it appears to the Magistrate, on the report of a Police officer or the information of any other person, that any person within the limits of his jurisdiction deemed to be a lunatic is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may cause the alleged lunatic to be produced before him and summon such relative or other person as has or ought to have the charge of him.

(2) If such relative or other person is legally bound to maintain the alleged lunatic, the Magistrate may make an order for such alleged lunatic being properly cared for and treated, and, if such relative or other person wilfully neglects to comply with the said order, the Magistrate may sentence him to imprisonment for a term which may extend to one month.

(3) If there is no person legally bound to maintain the alleged lunatic, or if the Magistrate thinks fit so to do, he may proceed as prescribed in Section 13, and upon being satisfied in manner aforesaid that the person deemed to be a lunatic is a lunatic and proper person to be detained under care and treatment may, if a medical officer gives a medical certificate with regard to such lunatic, make a reception order for the detention of such lunatic in an asylum.

Detention of alleged lunatic pending report by medical officer.

15. (1) When any person alleged to be a lunatic is brought before a Magistrate under the provisions of Section 12 or Section 14, the Magistrate may, by an order in writing, authorise the detention of the alleged lunatic in suitable custody for such time not exceeding ten days as may be, in his opinion, necessary to enable the medical officer to determine whether such alleged lunatic is a person in respect of whom a medical certificate may be properly given.

(2) The Magistrate may, from time to time, for the same purpose by order in writing, authorise such further detention of the alleged lunatic for periods not exceeding ten days at a time as he thinks necessary;

Provided that no person shall be detained in accordance with the provisions of this Section for a total period exceeding thirty days from the date on which he was first brought before the Magistrate.

Further provisions as to reception orders and medical certificates.

Medical certificates.

16. (1) Every medical certificate under this Regulation shall be made and signed by a medical practitioner or medical officer, as the case may be, and shall be in the form prescribed.

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(2) Every medical certificate shall state the facts upon which the person certifying has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others ; and no reception order on petition shall be made upon a certificate founded only upon facts communicated by others.

(3) Every medical certificate made under this Regulation shall be evidence of the facts therein appearing and of the judgment there in stated to have been formed by the person certifying on such facts, as if the matters therein appearing had been verified on oath.

Time and manne of medical examination of lunatics.

17. (1) A reception order required to be founded on a medical certificate shall not be made unless the person who signs the medical certificate or where two certificates are required, each person who signs a certificate, has personally examined the alleged lunatic, in the case of an order upon petition, not more than seven clear days before the date of the presentation of the petition and, in all other cases, not more than seven clear days before the date of the order.

(2) Where two medical certificates are required, a reception order shall not be made unless each person signing a certificate has examined the alleged lunatic separately from the other.

Authority for reception.

18. A reception order, if the same appears to be in conformity with this Regulation shall be sufficient authority for the petitioner or any reason authorised by him, or in the case of an order not made upon petition, for the person authorised so to do by the person making the order, to take the lunatic and convey him to the place mentioned in such order and for his reception and detention therein or in any asylum to which he may be removed in accordance with the provisions of this Regulation or of rules made thereunder, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order ;

Provided that no reception order shall continue to have effect,—

(*a*) after the expiry of thirty days from the date on which it was made unless the lunatic has been admitted into the asylum mentioned therein within that period, or

(*b*) after the discharge, under the provisions of this Regulation, of the lunatic from such asylum or from any other asylum to which he may have been removed.

Copy of reception order to be sent to person in charge of asylum.

19. Any Magistrate making a reception order under this Part shall forthwith send a certified copy of the order to the person in charge of the asylum in which such lunatic is to be detained.

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Detention of lunatics pending removal to an asylum.

Detention of lunatics pending removal to asylum.

20. When any reception order has been made under Sections 6, 9, 13 or 14, the Magistrate may, for reasons to be recorded in writing, direct that the lunatic, pending his removal to an asylum, be detained in suitable custody in such place, as the Magistrate thinks fit.

Reception and detention of criminal lunatics.

Reception and detention of criminal lunatics.

21. An order under Section 347 or Section 352 of the Code of Criminal Procedure, or under any rule relating to the lunatics passed by Our Government under the Prisons Regulation of 1071 directing the reception of a criminal lunatic into an asylum shall be sufficient authority for the reception and detention of any person named therein in such asylum or to any other asylum to which he may be lawfully transferred.

Reception after inquisition.

Reception after inquisition.

22. A lunatic so found by inquisition may be admitted and detained in an asylum on an order made by the District Court.

Order for payment of cost of maintenance of lunatic.

23. (1) When any lunatic has been admitted into an asylum in accordance with the provisions of Section 22, the District Court shall, on the application of the person in charge of such asylum, make an order for the payment of the cost of maintenance of the lunatic in the asylum, and may from time to time, direct that any sum of money payable under such order shall be recovered from the estate of the lunatic or of any person legally bound to maintain him :

Provided that if at any time it shall appear to the satisfaction of the Court that the lunatic has not sufficient property, and that no person legally bound to maintain such lunatic has sufficient means for the payment of such cost, the Court shall certify the same instead of making such order for the payment of the cost as aforesaid.

(2) An order under sub-section (1) shall be enforced in the same manner and shall be of the same force and effect and subject to the same appeal as a decree made by the Court in a suit in respect of the property of person therein mentioned.

Amendment of order or certificate.

Amendment of order or certificate.

24. If after the reception of any lunatic into an asylum on a reception order, it appears that the order upon which he was received or the medical certificate or certificates upon which such order was made is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the asylum, one of whom shall be a medical officer.

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CHAPTER III.

CARE AND TREATMENT.

Visitors.

Appointment of visitors.

25. (1) Our Government shall appoint for every asylum not less than three visitors..one of whom at least shall be a medical officer.

(2) The District Magistrate of the place where an asylum is situated shall be a visitor *ex officio* of the asylum.

Monthly inspection by visitors.

26. Two or more of the visitors one of whom shall be a medical officer, shall, once at least in every month together inspect every part of the asylum of which they are visitors and see and examine, as far as circumstances will permit every lunatic and boarder therein and the order and certificate for the detention of every lunatic admitted since the last visitation of the visitors and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the inmates thereof.

Inspection of criminal lunatics by District Magistrate or visitors.

27. (1) When any person is confined under the provisions of Section 347 or Section 352 of the Code of Criminal Procedure, the District Magistrate if such person is confined in a jail or the visitors of the asylum or any two of them, if he is confined in an asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by the District Magistrate or by two of such visitors as aforesaid; and such District Magistrate or visitors shall make a special report as to the state of mind of such person to the authority under whose order he is confined.

(2) Our Government may empower the officer in charge of the jail in which such person may be confined to discharge all or any of the functions of the District Magistrate under sub-section (1).

Discharge of lunatics.

Order of discharge from asylum by visitors.

28. (1) Three of the visitors of an asylum, of whom one shall be a medical officer, may, by order in writing, direct the discharge of any person detained in the asylum, and such person shall thereupon be discharged;

Provided that no order under this sub-section shall be made in the case of a criminal lunatic.

(2) When such order is made, if the person is detained under the order of any public authority, notice of the order of discharge shall be immediately communicated to such authority.

Discharge of lunatics in other cases.

29. A lunatic detained in an asylum under a reception order, made on petition shall be discharged if the person on whose petition the reception order was made so applies in writing to the person in charge of the asylum:

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Provided that no lunatic shall be so discharged if the officer in charge of the asylum certifies in writing that the lunatic is dangerous and unfit to be at large.

Order of discharge on undertaking of relative for due care of the lunatic.

30. When any relative or friend of a lunatic detained in an asylum under the provisions of Section 13 or Section 14 is desirous that such lunatic shall be delivered over to his care and custody, he may make an application to the authority under whose order the lunatic is detained, and such authority, if it thinks fit, in consultation with the person in charge of the asylum and with the visitors or with one of them being a medical officer, and upon such relative or friend entering into a bond with or without sureties for such sum of money as the said authority thinks fit, conditioned that such lunatic shall be properly taken care of and shall be prevented from doing injury to himself or to others, may make an order for the discharge of such lunatic, and such lunatic shall thereupon be discharged.

Discharge of person subsequently found on inquisition not to be of unsound mind.

31. If any lunatic detained in an asylum on a reception order made under Section 6, 9, 13 or 14 is subsequently found on an inquisition under Chapter IV not to be of unsound mind and incapable of managing himself and his affairs, the person in charge of the asylum shall forthwith, on the production of a certified copy of such finding, discharge the alleged lunatic from the asylum.

Removal of lunatics.

Removal of lunatics and of criminal lunatics.

32. (1) Any lunatic may, in accordance with any general or special order of Our Government, be removed from any asylum to any other asylum.

Provided that no lunatic admitted into an asylum on a reception order made on petition shall be so removed until notice of such intended removal has been given to the petitioner.

(2) Our Government may make such general or special order as they think fit directing the removal of any person for whose confinement an order has been made under Section 347 or Section 352 of the Code of Criminal Procedure from the place where he is for the time being confined to any asylum, jail or other place of safe custody.

Escape and recapture.

Order to justify detention and recapture after escape.

33. Every person received into an asylum by any order under the provisions of this Regulation may be detained therein until, he is removed or discharged as authorised by law, and in case of escape may, by virtue of such order, be retaken by any Police officer or by the person in charge of such asylum or any officer or servant belonging thereto, or any other person authorised in that behalf by the said person in charge, and conveyed to and received and detained in such asylum.

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Provided that in the case of a lunatic not being a criminal lunatic the power to retake such escaped lunatic under this Section shall be exercisable only for a period of one month from the date of his escape.

CHAPTER IV.

PROCEEDINGS IN LUNACY.

Inquisition.

Power of District Court to institute inquisition as to persons alleged to be lunatic.

34. Whenever any person is possessed of property and is alleged to be a lunatic, the District Court within whose jurisdiction such person in residing may, upon application, by order direct an inquisition for the purpose of ascertaining whether such person is of unsound mind and incapable of managing himself and his affairs.

Application by whom to be made.

35. Application for such inquisition may be made by any relative of the alleged lunatic or by the Government pleader as defined in the Code of Civil Procedure, 1100, or if the property of the alleged lunatic consists in whole or in part of land or any interest in land, by the Division Peishkar of the place in which any portion of the land is situate

Notice of time and place of inquisition.

36. (1) Notice shall be given to the alleged lunatic of the time and place at which it is proposed to hold the inquisition.

(2) If it appears that personal service on the alleged lunatic would be ineffectual, the Court may direct such substituted service of the notice as it thinks fit.

(3) The Court may also direct a copy of such notice to be served upon any relative of the alleged lunatic and upon any other person to whom in the opinion of the Court notice of the application should be given.

Powers of Court in respect of attendance and examination of lunatics.

37. (1) The Court may require the alleged lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged lunatic.

(2) The Court may likewise make an order authorising any person or persons therein named to have access to the alleged lunatic for the purpose of a personal examination.

Rules respecting attendance and examination of females alleged to be lunatic.

38. The attendance and examination of the alleged lunatic under the provisions of Section 37 shall, if the alleged lunatic be a woman who according to the manners and customs of the country, ought not to be compelled to appear in public, be regulated by the law and practice for the examination of such persons in other civil cases.

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39. (1) The District Court, if it thinks fit, may appoint two or more persons to act as assessors to the Court in the said inquisition.

Inquisition by District Court and finding thereon.

(2) Upon the completion of the inquisition, the Court shall determine whether the alleged lunatic is of unsound mind and incapable of managing himself and his affairs or may come to a special finding that such alleged lunatic is of unsound mind so as to be incapable of managing his affairs but that he is capable of managing himself and is not dangerous to himself or to others.

40. (1) If the alleged lunatic resides at a distance of more than fifty miles from the place where the District Court is held to which the application is made, the said court may issue a commission to any subordinate court to make the inquisition, and such subordinate court shall thereupon conduct the inquisition in the manner herein before provided in this Chapter.

Inquisition by subordinate Court on Commission issued by District Court and proceedings thereon.

(2) On the completion of the inquisition, the subordinate court shall transmit the record of its proceedings with the opinions of the assessors, if assessors have been appointed, and its own opinion on the [illegible]; and the District Court shall thereupon proceed to dispose of the [illegible]ication in the manner provided in Section 39, sub-section (2);

Provided that the District Court may direct the subordinate court to make such further or other inquiries as it thinks fit before disposing of the application.

Judicial powers over persons and estate of lunatic.

41. (1) The Court may make orders for the custody of lunatics so found by inquisition and the management of their estates.

Custody of lunatics and management of their estates.

(2) When upon the inquisition it is specially found that the person to whom the inquisition relates is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others, the Court may make such orders as it thinks fit for the management of the estate of the lunatic including proper provisions for the maintenance of the lunatic and of such members of his family as are dependent on him for maintenance but it shall not be necessary to make any order as to the custody of the person of the lunatic.

42. (1) If the estate of a lunatic so found consists in whole or in part of land or any interest in land, the District Court may direct the Division Peishkar of the place to take charge of the person and estate of the lunatic:

Power to direct Division Peishkar to take charge of person and estate of lunatic in certain cases.

Provided that no such order shall be made without the consent of the Division Peishkar previously obtained.

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(2) The Division Peishkar shall thereupon appoint a manager of the estate, and may appoint a guardian of the person of the lunatic.

Control over proceedings of Division Peishkar.

43. All proceedings of the Division Peishkar in regard to the person or estate of a lunatic under this Chapter shall be subject to the control of Our Government or of such authority as they may appoint in this behalf.

Power of District Court to appoint guardian and Manager and take security from manager.

44. (1) In all other cases the District Court shall appoint a manager of the estate of the lunatic and may appoint a guardian of his person.

Provided that the District Court may instead of appointing a manager of the estate of a lunatic, proceed under Sections 45 and 46.

(2) Any person who has been appointed by the District Court or the Division Peishkar to manage the estate of a lunatic shall, if so required, enter into a bond in such form and with such sureties as to the Court or to the Division Peishkar, as the case may be, may seem fit, engaging duly to account for what he may receive in respect of the property of the lunatic.

Power to apply property for lunatics maintenance without appointing manager in certain cases.

45. (1) If it appears to the District Court having regard to the situation and condition in life of the lunatic and his family and the other circumstances of the case to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner it may, instead of appointing a manager of the estate, order that the property, if money, or if of any other description the produce thereof when realised be paid to such person as the Court may think fit to be applied for the purpose aforesaid.

(2) The receipt of the person so appointed shall be a valid discharge to any person who pays any money or delivers any property of the lunatic to such persons.

Power to apply property for lunatics' maintenance in case of temporary lunacy.

46. If it appears to the District Court that the unsoundness of mind of a lunatic is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or for the maintenance of such members of his family as are dependent on him for their maintenance, the Court may, in like manner as under Section 45, direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Restriction on appointment of legal heir of lunatic to be guardian of his person.

47. The legal heirs of a lunatic shall not be appointed to be the guardian of the person of such lunatic unless the District Court or the Division Peishkar, as the case may be, for reasons to be recorded in writing, considers that such an appointment is for the benefit of the lunatic.

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48. A guardian of the person of a lunatic or a manager of his estate appointed under this Chapter shall be paid such allowance, if any, as the District Court or the Division Peishkar, as the case may be, thinks fit for his care and pains in the execution of his duties.

Remuneration of managers and guardians.

49. (1) The person appointed to be guardian of a lunatic's person shall have the care of his person and maintenance.

Duties of guardian.

(2) When a distinct guardian is appointed, the manager shall pay to the guardian such allowance as may be fixed by the District Court or the Division Peishkar, as the case may be, for the maintenance of the lunatic and such members of his family as are dependent on him for their maintenance.

50. (1) Every manager of the estate of a lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a lunatic and may collect and pay all just claims, debts and liabilities due to or by the estate of the lunatic:

Powers of manager.

Provided that no manager so appointed shall without the permission of the District Court—

(*a*) mortgage, charge, or transfer by sale, gift, exchange or otherwise any immoveable property of the lunatic : or

(*b*) lease any such property for a term exceeding five years.

Such permission may be granted subject to any condition or restriction which the Court thinks fit to impose.

(2) Before granting any such permission, the Court may cause notice of the application for such permission to be served on any relative or friend of the lunatic, and may make or cause to be made such inquiries as to the Court may seem necessary in the interest of the lunatic.

51. (1) Every person appointed by the District Court or by the Division Peishkar to be manager of the estate of a lunatic shall, within six months from the date of his appointment deliver in Court or to the Division Peishkar, as the case may be, an inventory of the immoveable property belonging to the lunatic and of all such money, or other moveable property, as he may receive on account of the estate together with a statement of all debts due by or to the same.

Manager to furnish inventory and annual accounts.

(2) Every such manager shall also furnish to the Court or to the Division Peishkar, as the case may be, annually within three months of the close of the year an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands.

52. If any relative of the lunatic, or the Division Peishkar by petition to the District Court impugns the accuracy of the said inventory and statement, or of any annual account, the Court may summon the manager and inquire summarily into the matter and make such order thereon as it thinks fit; or the Court at its

Proceedings if accuracy of inventory or accounts is impugned.

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discretion, may refer any such petition to any subordinate Court or to the Division Peishkar, if the manager was appointed by the Division Peishkar.

Payment into Public treasury and investment of proceeds of estates.

53. All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the lunatic or of the estate, shall be paid into such Government treasury as may be specified by the Court or the Division Peishkar as the case may be on account of the estate and shall be invested from time to time in any of the securities that may be authorised for this purpose by Our Government unless the Court or Division Peishkar, as the case may be, for reasons to be recorded in writing directs that such sums be in the interests of the lunatic otherwise invested or applied.

Relative may sue for an account.

54. Any relative of a lunatic may with the leave of the District Court sue for an account from any manager appointed under this Chapter, or from any such person after his removal from office or from his legal representative in case of his death, in respect of any estate then or formerly under his care or management or any sums of money or other property received by him on account of such estate.

Removal of managers and guardians.

55. (1) The District Court, for any sufficient cause, may remove any manager appointed by it and may appoint any other fit person in his place, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all money received or disbursed by him.

(2) The Court may also, for any sufficient cause, remove any guardian of the lunatic appointed by it, and may appoint any other fit person in his place.

(3) The Division Peishkar, for any sufficient cause, may remove any manager of the estate of a lunatic or guardian of the person of a lunatic appointed by him, and may appoint any other fit person in place of such manager or guardian; and the District Court, on the application of the Division Peishkar, may compel any manager removed under this Section to make over the property and all accounts in his hands to his successor and to account to such successor for all money received or disbursed by him.

Penalty on manager for refusing to deliver accounts or property.

56. The District Court may impose a fine not exceeding five hundred rupees on any manager of the estate of a lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the time fixed by the Court and may realise such fine as if it were a sum due under a decree of the Court and may also commit the recusant to the civil jail until he delivers such accounts or property.

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57. (1) When any person has been found under this Chapter to be of unsound mind, and it is subsequently shown to the District Court that there is reason to believe that such unsoundness of mind has ceased, such Court may make an order for inquiring whether such person is still of unsound mind and incapable of managing himself and his affairs.

Proceedings in Lunacy to cease or to be set aside if Court finds that the unsoundness of mind has ceased.

(2) The inquiry shall, as far as may be, be conducted in the same manner as is prescribed in this Chapter for an inquisition into the unsoundness of mind of an alleged lunatic, and if it is found that the unsoundness of mind has ceased, the Court shall order all proceedings in the lunacy to cease or to be set aside on such terms and conditions as to the Court may seem fit.

Appeal.

58. An appeal shall lie to the High Court from any order made by a District Court under this Chapter.

PART III.

MISCELLANEOUS.

CHAPTER V.

Expenses of Lunatics.

59. Any money in the possession of a lunatic found wandering at large may be applied by the Magistrate towards the payment of the cost of maintenance of the lunatic or of any other expenses incurred on his behalf, and any moveable property found on the person of the lunatic may be sold by the Magistrate, and the proceeds thereof similarly applied.

Application of property in the possession of a lunatic found wandering.

60. If a lunatic detained in an asylum on a reception order made under Section 13 or Section 14 has an estate applicable to his maintenance, or if any person legally bound to maintain such lunatic has the means to maintain him, the authority which made the reception order may apply to the District Court within the local limits of which the estate of the lunatic or any part of it is situate or the person legally bound to maintain him resides, for an order for the payment of the cost of maintenance of the lunatic.

Application to civil court for order for the payment of cost of maintenance out of the lunatic's estate, or by persons bound to maintain him.

61. (1) The Court shall inquire into the matter in a summary way and on being satisfied that such lunatic has an estate applicable to his maintenance, or that any person is legally bound to maintain and has the means of maintaining such lunatic, may make an order for the recovery of the cost of maintenance of such lunatic, together with the cost of the application out of such estate or from such person.

Order of Court and enforcement thereof.

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(2) Such order shall be enforced in the same manner, and shall be of the same force and effect and subject to the same appeal, as a decree made by the said Court in a suit in respect of the property or person therein mentioned.

Saving of liability of relatives to maintain lunatic.

62. The liability of any relative or person to maintain any lunatic shall not be taken away or affected by any provision contained in this Regulation.

CHAPTER VI.

Rules.

Power of Government to make rules.

63. (1) Our Government may make rules for all or any of the following purposes, namely :—

(*a*) to prescribe forms for any proceedings under this Regulation.

(*b*) to prescribe places of detention and regulate the care and treatment of person detained and removal of persons detained from one asylum to another ;

(*c*) to relate the confinement, care, treatment and discharge of criminal lunatics ;

(*d*) to regulate the management of asylums and the care or custody of the inmates thereof ;

(*e*) to prescribe the procedure to be followed by District Courts and Magistrates before a lunatic is sent to any asylum established by Our Government; and

(*f*) save as otherwise provided in this Regulation, generally to carry into effect the provisions of the Regulation.

(2) In making any rule under this Section, Our Governmedt may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

Publication of rules.

64. All rules made under Section 63 shall be published in Our Government Gazette and shall thereupon have effect as if enacted in this Regulation.

CHAPTER VII.

Supplemental provisions.

65. Any person who—

Penalty for improper reception or detention of lunatics.

(*a*) otherwise than in accordance with the provisions of this Regulation receives or detains a lunatic or alleged lunatic in an asylum, or

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(*b*) for gain detains two or more lunatics in any place not being an asylum shall be punishable with imprisonment which may extend to two years or with fine or with both.

Provisions as to bonds

66. The provisions of Chapter XL of the Code of Criminal Procedure shall, so far as may be apply to bonds taken under this Regulation.

Pension of lunatic payable by Government.

67. (1) When any sum is payable in respect of pay, pension, gratuity or other similar allowance to any person by our Government and the person to whom the sum is payable is certified by a Magistrate to be a lunatic, the Government officer under whose authority such sum would be payable if the payee were not a lunatic may pay so much of the said sum, as he thinks fit to the person having charge of the lunatic, and may pay the surplus, if any, or such part thereof as he thinks fit for the maintenance of such members of the lunatic's family as are dependent on him for maintenance.

Use of forms in Schedule.

68. Subject to any rule the forms set forth in the schedule with such variation as the circumstances of each case may require, shall be used for the respective purposes therein mentioned, and if used, shall be sufficient.

Protection to persons acting under Regulation.

69. No suit, prosecution or other legal proceedings shall lie against any persons for anything which is in good faith done or intended to be done under this Regulation.

Power to give effect to warrants and orders of certain courts outside Travancore.

70. Any officer in charge of any asylum may give effect to any order or warrant for the reception and detention of any lunatic made or issued by any court or authority beyond the limits of Travancore notified by Our Government in this behalf in Our Government Gazette from time to time.

Power to make rules for reception of lunatics received from outside Travancore.

71. Our Government may make rules regarding the reception and detention in any asylum of lunatics whose reception and detention are provided for by Section 70.

Repeal and orders under repealed enactment.

72. The Travancore Lunacy Regulation (I of 1080) is hereby repealed. But all orders for the detention of lunatics made and all undertakings given thereunder shall have the same force and effect as if they had been made or given under this Regulation and by or to the authority empowered thereby in such behalf.

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SCHEDULE

FORMS.

(See Section 68.)

FORM I.

APPLICATION FOR RECEPTION ORDER.

(See Sections 4 and 5.)

In the matter of A. B., residing at by occupation , son of , a person alleged to be a lunatic.

To District Magistrate of , (or the First Class Magistrate of).

The petition of C. D., residing at occupation , son of , in the town, etc., of in the taluk of ,

1. I am years of age.

2. I desire to obtain an order for the reception of A. B. as a lunatic in the asylum situate at

3. I last saw the said A, B., at on the day of

4. I am the of the said A. B., (or if the petitioner is not a relative of the patient state as follows :—)

I am not a relative of the said A. B. The reasons why this petition is not presented by a relative are as follows :—(State them).

The circumstances under which this petition is presented by me are as follows :—(State them).

5. The persons signing the medical certificates which accompany the petition are.

6. A statement of particulars relating to the said A. B. accompanies this petition.

7. (if that is the fact) An application for an enquiry into the mental capacity of the said A. B. was made to the on the and a certified copy of the order made on the said petition is annexed hereto. (Or if that is the fact).

No application for an enquiry into the mental capacity of the said A. B. has been made previous to this application.

The petitioner therefore prays that a reception order may be made in accordance with the foregoing statement.

(Sd.) C. D.

The statements contained or referred to in paragraph are true to my knowledge; the other statements are true to my information and belief.

Dated. (Sd.) C. D.

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Statement of Particulars.

(if any of the particulars in this statement is not known, the fact to be so stated.)

The following is a statement of particulars relating to the said A. B.—

Name of patient at length.
Sex and age.
Married, single or widowed.
Previous occupation.
Caste and religious belief, as far as known.
Residence at or immediately previous to the date hereof.
Names of any near relatives to the patient who are alive.
Whether this is first attack of lunacy.
Age (if known) on first attack.
When and where previously under care and treatment as a lunatic.
Duration of existing attack.
Supposed cause.
Whether the patient is subject to epilepsy.
Whether suicidal
Whether the patient is known to be suffering from phthisis or any form of tubercular disease.
Whether dangerous to others, and in what way.
Whether any near relative (stating the (relationship) has been afflicted with insanity.
Whether the patient is addicted to alcohol, or the use of opium, ganja, charas, bhang, cocaine or other intoxicant,
(The statement contained or referred to in paragraph are true to my knowledge. The other statements are true to my information and belief.)
(Signature by person making the statement.

FORM 2.

Reception Order on Petition.

(See Sections 6 and 9.)

I the undersigned E. F., being the District Magistrate of (or the First Class Magistrate of) upon the petition of C. D., of in the matter of A. B. a lunatic, accompanied by the Medical certificates of G. H., a medical officer, and of J. K. a medical practitioner (or medical officer), under the Travancore Lunacy Regulation, hereto annexed, hereby authorise you to receive the said A. B. into your asylum. And I declare that I have (or have not) personally seen the said A. B. before making this order,

(Sd.) E. F.
(Designation as above.)

To

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FORM 3.

MEDICAL CERTIFICATE.

(See Sections 16 and 17)

In the matter of A. B. of in the town, etc., of in the Taluk of an alleged lunatic.

I the undersigned C. D., do hereby certify as follows :—

1. I am a gazetted medical officer (or a medical practitioner declared holder of (or declared by Government to be by Government to be medical officer under the Travancore Lunacy Regul- a medical practitioner under the Travancore Lunacy Regulation tion and I am in the actual practice of the medical profession.

2. On the day of year at town in the ——— of in the taluk of village

(separately from any other practitioner), I personally examined the said A.B. and came to the conclusion that the said A. A. is a lunatic and a proper person to be taken charge of and detained under care and treatment.

3. I formed this conclusion on the following grounds, viz.—

(a) Facts indicating insanity observed by myself, viz :—

(b) Other facts (if any) indicating insanity communicated to me by others, viz : –

Here state the information and from whom.

(Sd.) C. D.
(Designation as above)

FORM 4.

RECEPTION ORDER IN CASE OF WANDERING OR DANGEROUS LUNATICS OR LUNATICS NOT UNDER PROPER CONTROL OR CRUELLY TREATED (SENT TO AN ASYLUM ESTABLISHED BY GOVERNMEMT).

(See Sections 13 and 14.)

I, C. D., the District Magistrate of (or the First Class Magistrate of)
having caused A. B. to be examined by E. F. a medical officer under the Travancore Lunacy Regulation, and being satisfied that A. B. (describing him) is a lunatic who was wandering at large (or is a person dangerous by reason of lunacy) (for is a lunatic not under proper

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care and control or is cruelly treated or neglected by the person having the care or charge of him) and a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said A. B into your asylum.

(Sd.) C. D.
(Designation as above.)

Dated the

To the Officer in charge of the asylum at

FORM 5.

SAME WHEN SENT TO AN ASYLUM NOT BEING AN ASYLUM ESTABLISHED BY GOVERNMENT.

I, C. D. (as above down to "care and treatment") and being satisfied with the engagement entered into in writing by G. H. of (here insert address and description) who has desired that, the said A. B. may be sent to the asylum at (here insert description of asylum and name of the person in charge) to pay the cost of maintenance of the said A. B. in the said asylum hereby authorise you to receive the said A. B. into your asylum.

(Sd.) C. D.
(Designation as above.)

Dated the

To the person in charge of the asylum at

FORM 6.

BOND ON THE MAKING OVER OF A LUNATIC TO THE CARE OF A RELATIVE OR FRIEND.

(See Sections 13 and 14.)

Whereas A. B., son of , inhabitant of has been brought up before C. D., the District Magistrate of or the First Class Magistrate of and is a lunatic who is believed to be dangerous (or deemed to be a lunatic who is not under proper care and control or is cruelly treated or neglected by the person having the charge of him) and whereas I. E. F., son of , inhabitant of , have applied to the Magistrate that the said A. B., may be delivered to my care.

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I, E. F., above-named hereby bind myself that on the said A. B., being made over to my care, I will have the said A. B. properly taken care of and prevented from doing injury to himself or to others and in case of my making default therein, I hereby bind myself to forfeit to the Government of His Highness the Maha Raja, the sum of rupees

Dated the day of year

(Sd.) E. F.

(Where a bond with sureties is to be executed add)—

We do hereby declare ourselves sureties for the above named E. F. that he will, on the aforesaid A. B. being made over to his care, have the said A. B. properly taken care of and prevented from doing injury to himself or to others : and in case of the said E. F. making default therein, we bind ourselves jointly and severally, to forfeit to the Government of His Highness the Maha Raja the sum of rupees

Dated the day of year

(Signature.)

FORM 7.

BOND ON THE DISCHARGE OF A LUNATIC FROM AN ASYLUM ON THE UNDERTAKING OF RELATIVE OR FRIEND TO TAKE DUE CARE.

(*See Section 30.*)

Whereas A. B., son of inhabitant of is a lunatic who is now detained in the asylum at under an order made by C. D., the District Magistrate for the town of or the First Class Magistrate of , under Section 13 or (Section 14) of the Travancore Lunacy Regulation, and whereas I, E. F., son of inhabitant of have applied to the said Magistrate, that the said A. B. may be delivered to my care and custody :

I hereby bind myself that on the said A. B. being made over to my care and custody, I will have him properly taken care of and prevented from doing injury to himself or to others and in case of my making default therein, I hereby bind myself to forfeit to the Government of His Highness the Maha Raja, the sum of rupees

Dated this day of year

(Sd.) E. F.

(Where a bond with sureties is to be executed add)—We do hereby declare ourselves sureties for the above-named E. F. that he will, on the aforesaid A. B. being delivered to his care and custody, have the said A. B. properly taken care of and prevented from doing injury to himself or to others : and in case of the said E. F. making default therein, we bind ourselves, jointly and severally, to forfeit to the Government of His Highness the Maha Raja, the sum of rupees

Dated this day of year

(Signature).

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Statement of Objects and Reasons.

The law relating to lunatics and their reception and detention in lunatic asylums contained in the Travancore Lunacy Regulation (I of 1080) has been found to be defective in some material respects. The summary procedure for the protection of lunatics is to lodge them in lunatic asylums under the orders of a Magistrate. This procedure is available, under the existing Regulation, only if the lunatic can be said to be a dangerous lunatic. There is provision in the Criminal Procedure Code, Chapter XXXIII, tending to the protection of criminal lunatics. There are, however, other classes of lunatics, *e. g.*, those who wander about the streets or are poor and uncared for or cruelly treated, in respect of whom no provision is now made. Government feel that they also stand in need of protection, obtained in a summary and expeditious way. In regard to the care of the person and the management of the estates of lunatics by taking proceedings through the District Court, there is some provision in the existing Regulation, but [illegible] are not perhaps ample. In British India, the law now in force is the Indian Lunacy Act 1912 (IV of 1912 with subsequent amendments). It is considered that a law on the lines of that Act will be beneficial to Travancore also. The Bill has accordingly been prepared on the lines of the British Indian Act.

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